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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/687,100	10/15/2003	Barclay Fred Burns	5594-002	7245
20575	7590	05/30/2006	EXAMINER	
MARGER JOHNSON & MCCOLLOM, P.C. 210 SW MORRISON STREET, SUITE 400 PORTLAND, OR 97204			SAADAT, CAMERON	
			ART UNIT	PAPER NUMBER
			3715	

DATE MAILED: 05/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/687,100

Applicant(s)

BURNS ET AL.

Examiner

Cameron Saadat

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**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --****Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 1/4/2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

In response to amendment filed 1/4/2006, claims 1-19 are pending in this application.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

**Claims 1-2, 6-8, 10-12, and 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mann, II et al. (USPN 5,577,186; hereinafter Mann) in view of Massachusetts Department of Education.**

Regarding claims 1 and 17, Mann discloses a method and system for simulating application software, comprising: providing a user interface introducing a problem to be solved and tools to be used to solve the problem, wherein the problem is tied to a core curriculum subject matter of graphical design *See Figure 3, ref. 53 lesson contents: discovering Paintbrush's menus, drawing, changing colors, Adding typed-in text*; presenting a generic application user interface having elements common to several different software packages of a particular type of software application to a user across a network (Col. 4, lines 56-63); receiving user inputs during an interaction with the user interface; and evaluating performance of the

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user for the type of software application based upon the user inputs (Col. 3, line 57 – Col. 4, line 10).

Mann discloses all of the claimed subject matter with the exception of explicitly disclosing the feature of providing educational content tied to *state educational standards* and using *educational technology standards* to evaluate performance. However, Massachusetts Department of Education teaches an educational system having curriculum that is tied to instructional technology standards having predetermined performance requirements for various grade levels. Thus, in view of Massachusetts Department of Education, it would have been obvious to one of ordinary skill in the art to modify the educational system described in Mann, by providing educational content tied to state educational standards and using educational technology standards to evaluate performance, in order to provide guidelines that ensure a student's ability to apply a wide range of technology tools to his/her learning of curriculum concepts. *See Massachusetts Department of Education, P1.*

Regarding claim 2, Mann discloses a method wherein the user is provided with of his or her performance (Col. 4, lines 4-10).

Regarding claim 6, Mann discloses a method, comprising collecting all of the user inputs and evaluations of the user inputs and generating an evaluation report of the performance of the user for the particular type of software application (Col. 4, lines 4-10).

Regarding claim 7, Mann discloses a method, further comprising presenting a generic user interface for a presentation application (Col. 7, lines 50-65).

Regarding claims 8 and 19, Mann discloses a method of providing a user interface, comprising: providing an introduction to a problem for a user, wherein the problem is tied to at least one core curriculum subject matter of graphical design *See Figure 3, ref. 53 lesson contents: discovering Paintbrush's menus, drawing, changing colors, Adding typed-in text*; identifying tools to solve the problem, wherein the tools include at least one software application of a particular type; instructing the

user on concepts and tools to be used in a solution; interacting with the user using the tools; displaying the solution; and providing the user with a summary of the problem and solution (Col. 3, lines 9-26). Mann discloses all of the claimed subject matter with the exception of explicitly disclosing the feature of providing educational content tied to *state educational standards* and using *educational technology standards* to evaluate performance. However, Massachusetts Department of Education teaches an educational system having curriculum that is tied to instructional technology standards having predetermined performance requirements for various grade levels. Thus, in view of Massachusetts Department of Education, it would have been obvious to one of ordinary skill in the art to modify the educational system described in Mann, by providing educational content tied to state educational standards and using educational technology standards to evaluate performance, in order to provide guidelines that ensure a student's ability to apply a wide range of technology tools to his/her learning of curriculum concepts. *See Massachusetts Department of Education, P1.*

Regarding claim 10, Mann discloses a method, wherein interacting with the user further comprises receiving and evaluating a user input (Col. 8, lines 47-59).

Regarding claim 11 and 18, Mann discloses a method, wherein interacting with the user further comprises providing feedback on performance (Col. 4, lines 1-3).

Regarding claim 12, Mann discloses a method, wherein providing feedback further comprises indicating that the user made a correct input (Col. 8, lines 50-55).

**Claims 3-5, 9, 13-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mann, II et al. (USPN 5,577,186; hereinafter Mann) in view of in view of Massachusetts Department of Education, further in view of Cook et al. (USPN 5,727,950; hereinafter Cook).**

Regarding claims 3-5 and 13, the combination of Mann and Massachusetts Department of Education discloses all of the claimed subject matter with the exception of explicitly disclosing the

feature of presenting a user with an opportunity to try again (as per claims 3, 4, and 13); providing a hint to a user (as per claim 4); and demonstrating the correct input (as per claim 5). However, Cook teaches a tutorial system wherein a user provides an input and the user is informed that the input is incorrect, and presenting the user with an opportunity to try again (See Fig. 5, refs. 405-407); demonstrating the correct input and providing a hint (See Fig. 4). Thus, in view of Cook, it would have been obvious to one of ordinary skill in the art to modify the feedback described in Mann, by providing hints, demonstrating correct input, and providing a user the opportunity to try again, in order to provide a virtual tutor that guides a user through learning materials.

Regarding claims 9 and 15, the combination of Mann and Massachusetts Department of Education discloses all of the claimed subject matter with the exception of explicitly disclosing the feature of storing user input. However, Cook teaches a tutorial system wherein user interactions are stored (Col. 48, lines 20-32). Hence, in view of Cook, it would have been obvious to one of ordinary skill in the art to modify the tutorial system described in Mann, by storing user inputs, in order to collect and provide indication of a user's current and past performance data.

Regarding claim 14, Mann discloses a method of providing an integrated technology learning system, comprising the steps of: establishing technology objectives for an instructional unit; identifying core curriculum subject matter components related to the technology objectives of graphical design *See Figure 3, ref. 53 lesson contents: discovering Paintbrush's menus, drawing, changing colors, Adding typed-in text*; determining a framework for problem solving; determining common elements of a user interface for at least one particular type of software application (Col. 4, lines 56-63); and adding simulation functionality for that particular type (Col. 3, line 57 – Col. 4, line 10). Mann discloses all of the claimed subject matter with the exception of explicitly disclosing the feature of providing educational content tied to *state educational standards* and using *educational technology standards* to evaluate performance. However, Massachusetts Department of Education teaches an educational system having

curriculum that is tied to instructional technology standards having predetermined performance requirements for various grade levels. Thus, in view of Massachusetts Department of Education, it would have been obvious to one of ordinary skill in the art to modify the educational system described in Mann, by providing educational content tied to state educational standards and using educational technology standards to evaluate performance, in order to provide guidelines that ensure a student's ability to apply a wide range of technology tools to his/her learning of curriculum concepts. *See Massachusetts Department of Education, P1*. The combination of Mann and Massachusetts Department of Education discloses all of the claimed subject matter with the exception of explicitly disclosing the feature of providing a theme and characters. However, Cook teaches a tutorial system comprising various themes and characters (Col. 14, lines 30-54). Hence, in view of Cook, it would have been obvious to one of ordinary skill in the art to modify the tutorial system described in Mann, by providing various themes and characters in order to provide a virtual coach that engages a user's interest based on his or her preferences.

Regarding claim 16, Mann discloses all of the claimed subject matter with the exception of explicitly disclosing the feature of providing educational content tied to *state educational standards* and using *educational technology standards* to evaluate performance. However, Massachusetts Department of Education teaches an educational system having curriculum that is tied to instructional technology standards having predetermined performance requirements for various grade levels. Thus, in view of Massachusetts Department of Education, it would have been obvious to one of ordinary skill in the art to modify the educational system described in Mann, by providing educational content tied to state educational standards and using educational technology standards to evaluate performance, in order to provide guidelines that ensure a student's ability to apply a wide range of technology tools to his/her learning of curriculum concepts. *See Massachusetts Department of Education, P1*. The combination of Mann and Massachusetts Department of Education discloses all of the claimed subject matter with the exception of explicitly disclosing the feature of storing user input. However, Cook teaches a tutorial

system wherein user interactions are stored (Col. 48, lines 20-32). Hence, in view of Cook, it would have been obvious to one of ordinary skill in the art to modify the tutorial system described in Mann, by storing user inputs, in order to collect and provide indication of a user's current and past performance data.

### *Response to Arguments*

Applicant's arguments filed 9/6/2005 have been fully considered but they are not persuasive. Applicant emphasizes that the Mann reference does not address providing a problem to be solved where the problem to be solved is tied to a core curriculum subject matter, such as math, science, reading, etc. However, the examiner respectfully disagrees. Claims are given their broadest reasonable interpretation in light of the supporting disclosure. In re Morris, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Limitations appearing in the specification but not recited in the claim are not read into the claim. In re Prater, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-551 (CCPA 1969). See also In re Zletz, 893 F.2d 319, 321-22, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989).

It is noted that applicant's specification provides a vague definition for *core curriculum*, "The core curriculum may be math, language arts, geography, or other subject matters about which the student's learning is organized." *P. 3, line 25 – P. 4, line 1.*

Accordingly, Mann discloses a tutorial interface system for simulating application software for assisting a user in learning and performing specific functions of a computer program; wherein the system introduces a problem to be solved (learning and performing a specific function within a computer application software), and introducing tools to be used to solve the problem (presenting samples of implementation of functions, assisting the user in learning to perform the function within the computer application software, and requiring the user to take an active approach in the training by performing actual instructions within the application software) *See Mann, Col. 2, lines 51-60.* In the embodiment described in Mann, the application software and problems to be solved are tied to a core curriculum



subject matter of art and graphical design. *See Figure 3, ref. 53 lesson contents: discovering paintbrush's menus, drawing, changing colors. Adding typed-in text.*

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure - Burmester et al. (USPN 6,561,812) – disclose an educational system having content tied to educational standards.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

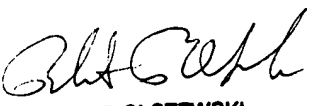
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cameron Saadat whose telephone number is (571) 272-4443. The examiner can normally be reached on M-F 9:00 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on (571)272-6788. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Cameron Saadat   
May 24, 2006

 5/25/06  
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